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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,326	03/26/2001	Wataru Nakashima	FUJI 18.489	8847
26304	7590	03/08/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN			CHASE, SHELLY A	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	

2133

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/817,326

Applicant(s)

NAKASHIMA ET AL.

Examiner

Shelly A Chase

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1 to 6 are presented for examination.
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#### *Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119, which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 4 to 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Dawson (USP 6625764 B1).

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**Claim 4:**

**Dawson** teaches a test environment [10] including a system under test [12] wherein the system under test forwards a packet [16] (see col. 3, line 63 to col. 4, line 5); and the packet includes a header and a payload (see fig. 7). Dawson also teaches a test device [24] receiving a packet from the system under test [12] wherein the packet is checked for errors (see col. 7, lines 21 to 30). Dawson further teaches the test device includes a media access control (MAC) [302] checking the received Ethernet frame (see fig. 5) and the received packet includes a destination and a source address fields and a payload field (see col. 5, lines 56 to 66). Dawson teaches the test device includes a test control module [306] either counting the number of pass/fail signals or issuing a trigger value (see col. 7, lines 35 to 50).

**Claim 5:**

**Dawson** teaches a test environment [10] including a system under test [12] wherein the system under test forwards a packet [16] (see col. 3, line 63 to col. 4, line 5); and the packet includes a header and a payload (see fig. 7). Dawson teaches the packet is transmitted based on a respected protocol (see col. 5, lines 55 to 66), the test system comprising: a test packet generator [14] and a user system [30] (see col. 5, lines 5 to 10). Dawson also teaches the system under test computing a target CRC utilizing a known header ("first output") and a known payload ("second output") wherein the known header and the known is retrieved and are exclusive-OR ("Selector") with data in a holding register to compute expected CRC (see col. 9, line 19 et seq.).

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Dawson further teaches the system providing controls for generating the splice value that is used to generate the CRC value (see col. 9, lines 35 to 40).

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As per claim 6, Dawson teaches the test packet is an Ethernet frame that includes a protocol header [210] and the protocol header includes various addresses that are changed or modified (See col. 6, lines 5 to 36).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson (USP 6625764 B1) in view of McKee et al. (USP 5477531).

Claim 1:

**Dawson** substantially teaches the claimed invention. Dawson teaches a test environment [10] including a system under test [12] wherein the system under test forwards a packet [16] (see col. 3, line 63 to col. 4, line 5); and the packet includes a header and a payload (see fig. 7). Dawson also teaches a test packet generator [14] generating the test packets, which are transmitted to the system under test [16] (see col. 4, lines 6 to 11); and a user system [30] providing controls for the test packet generator (see col. 5, lines 5 to 17).

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Dawson further teaches the test packet generator [14] includes a known header portion [502] and a known payload portion [504] wherein the known header includes (MAC) destination and source address fields (see col. 9, lines 8 to 12) and the payload portion includes a predetermined data pattern (see col. 9, lines 13 to 17). Dawson also teaches the payload portion includes random data (see col. 11, line 26 et seq.).

Dawson teaches the user system controls the test packet generator and generates a splice value.

Dawson fail to specifically teach the transmit control part comprising a controller that places the address in the header field in accordance with a format of the packet and placing the test data in the data field. However, McKee in an analogous art teaches testing a packet base network wherein the test station includes a programmed controlled processor [20] generating test programs according to specifications stored in a test sequence storage device [23] (see col. 4, lines 25 to 40). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify testing using test packets of Dawson to include a processor generating test programs according to set specifications as taught by McKee. This modification would have been obvious because a person of ordinary skill in the art would have been motivated to employ a testing method that is capable of adjusting the test in order to provide a variable test system.

As per claim 3, Dawson teaches a user control system [30] including a control unit [34] and a storage unit [36] (see col. 5, lines 6 to 16) and instruction for operating

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the system is stored in a storage unit and are loaded for use into a control device (see col. 12, lines 55 to 68).

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***Allowable Subject Matter***

7. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior arts of record teaches testing using test packets as detailed above; however, the prior art made of record fail to teach or specifically suggest a testing apparatus wherein the protocol header generating part comprises a unit that updates an address within a range defined by initial value data and end value data each time one packet is sent.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelly A Chase whose telephone number is 703-308-7246. The examiner can normally be reached on Mon-Thur from 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

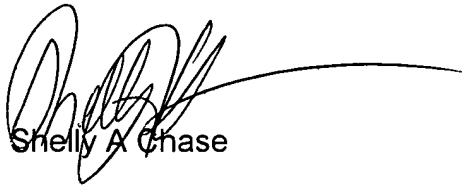
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Shelly A Chase